

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEMAL ALBRITTON,

Plaintiff,

22-cv-4512 (JGK)

- against -

ORDER OF SERVICE

LAWRENCE FREDELLA, ET AL.,

Defendants.

JOHN G. KOELTL, District Judge:

The plaintiff, who is currently incarcerated at Woodbourne Correctional Facility, brings this pro se action under 42 U.S.C. §§ 1983, 1985, 1986, and 1988, alleging that the defendants denied him parole in violation of his rights to due process and equal protection. By order dated August 12, 2022, the Court granted the plaintiff's request to proceed in forma pauperis ("IFP"), that is, without prepayment of fees.¹ The Court directs service on defendants Lawrence Fredella, Tina Stanford, Tyece Drake, Charles Davis, Tana Agostini, Ellen E. Alexander, and Erik Berliner.²

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. See 28 U.S.C. § 1915(b)(1).

² On August 22, 2022, Chief Judge Laura Taylor Swain severed and transferred the claims against defendant Mary Grace Sullivan and the Jane and John Doe defendants to the United States District Court for the Northern District of New York. See ECF No. 10. The present Order of Service pertains only to the remaining defendants.

DISCUSSION

Because the plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the United States Marshals Service to effect service.³ See Walker v. Schult, 717 F.3d 119, 123 n.6 (2d Cir. 2013); 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) ("At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed to the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915[.]").

To allow the plaintiff to effect service on defendants Fredella, Stanford, Drake, Davis, Agostini, Alexander, and Berliner through the United States Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return Form ("USM-285 Form") for these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

³ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses be served within 90 days of the date the complaint is filed, the plaintiff in this case is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date that summonses are issued.

If the complaint is not served within 90 days after the date the summonses are issued, the plaintiff should request an extension of time for service. See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service).

The plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if the plaintiff fails to do so.

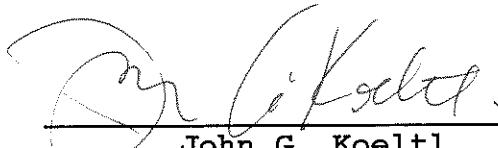
CONCLUSION

The Clerk of Court is instructed to issue summonses for defendants Fredella, Stanford, Drake, Davis, Agostini, Alexander, and Berliner, complete the USM-285 Forms with the addresses for these defendants, and deliver all documents necessary to effect service to the United States Marshals Service.

The Clerk of Court is further directed to mail an information package to the plaintiff.

SO ORDERED.

Dated: New York, New York
September 20, 2022



John G. Koeltl

United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

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